



Agenda Date: 7/12/01

Agenda Item: 4E

STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR)
AN ORDER AUTHORIZING BROADSLATE)
NETWORKS OF NEW JERSEY, INC. TO)
PROVIDE FACILITIES-BASED LOCAL)
EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES)
THROUGHOUT NEW JERSEY)

ORDER OF APPROVAL

DOCKET NO. TE00040280

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated April 11, 2000, Broadslate Networks of New Jersey, Inc. (Petitioner or Broadslate) filed a petition with the Board of Public Utilities (Board) requesting authority to provide local exchange and interexchange services throughout the State of New Jersey. Broadslate included responses to a Staff questionnaire with its petition. Petitioner requested that this questionnaire as well as Exhibit C of the petition itself be considered confidential. Petitioner also responded to Staff interrogatories by letter dated June 8, 2001.

BACKGROUND

According to the petition, Broadslate was incorporated under the laws of the State of Delaware on March 7, 2000. Petitioner's principal offices are located at 675 Peter Jefferson Parkway, Suite 310, Charlottesville, Virginia 22911. Petition at 2.

Petitioner submitted copies of its Articles of Incorporation, Delaware Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. Petition at 3, Exhibit A. According to the petition, Broadslate was formed to provide local exchange and interexchange services. Petition at 1. Petitioner advised that Broadslate's affiliates are currently authorized to provide facilities-based local exchange services in Alabama, Delaware, Florida, Georgia, Kentucky, Maryland, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia and on a resale basis in a number of other states. Broadslate's affiliates are authorized to provide facilities-based interexchange services in Alabama, Delaware, Kentucky, Maryland, Mississippi, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia. Broadslate has not been denied authority to

provide telecommunications services in any state. In addition, Broadslate has no pending civil, criminal or administrative actions against it. Broadslate advised that it is has not yet negotiated any interconnection agreements.

In its petition, Petitioner advised that it seeks authority to provide local exchange and interexchange telecommunications services to business customers throughout New Jersey. Petitioner plans to offer services on both a facilities-based and a resold basis. Petitioner intends to provide digital connections at a variety of speeds between customer-designated premises and the Petitioner's network. The Petitioner's services may be provided using a variety of digital transmission technologies, using the Petitioner's own services and equipment and/or the facilities of others. Petitioner intends to purchase unbundled network elements, including copper loops, and to collocate equipment in the incumbent local exchange carrier's central offices, other carrier's central offices or its own locations. Currently, Petitioner does not own, operate or control, directly or indirectly, transmission facilities with the technological capability to provide telecommunications services within the State of New Jersey. Petitioner will also construct its own facilities to provide facilities-based telecommunications services, and initially will focus on deploying xDSL technology to provide high-speed connections to its customers. Petition at 5.

Petitioner requested waivers of N.J.A.C. 14:1-4.3 and N.J.S.A. 48:3-7.8, which require that its books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey. Petitioner requested permission, in the interest of efficiency and to prevent undue burden, to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP). Petition at 6. Petitioner also requested permission to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in Charlottesville, Virginia. Petition at 6. Petitioner also stated that, upon written notice from the Board, it will produce its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of these records. Petition at 6.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petition at 6. Petitioner also asserted that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. In addition, Petitioner stated that approval of its petition will enhance the telecommunications infrastructure in the State of New Jersey and will facilitate economic development. Petition at 7.

With regard to its managerial qualifications, Broadslate stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petition at 4. Petitioner submitted the professional biographies of its key personnel, who, according to Broadslate, are well qualified to execute its business plans, and have extensive managerial and technical experience in the telecommunications industry. Petition at 4, Exhibit B.

Petitioner has submitted, as evidence of its financial qualifications, financial information of its parent, Broadslate Networks, Inc., but will need to file the required two years of its own pro forma statements and balance sheets prior to approval of its tariff, pursuant to N.J.A.C. 14:1-5.11 (a) 5.

By letter dated January 19, 2001, the Division of the Ratepayer Advocate recommended approval of this petition.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C § 151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16 (a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Broadslate's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange and interexchange telecommunications services in New Jersey subject to approval of its tariff and submission of its own pro forma financial statements. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided.

Regarding Petitioner's request for waivers of Board rules, the Board FINDS that Petitioner has demonstrated good cause why the Board should grant relief from its requirements that Petitioner maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board Petitioner's books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

In addition, the Board APPROVES Broadslate's request for confidential treatment of the information in its Exhibit C of its petition.

DATED: 7/13/01

BOARD OF PUBLIC UTILITIES
BY:

(signed)
CAROL J. MURPHY
ACTING PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)
FRANCES L. SMITH
BOARD SECRETARY